

# **EXHIBIT “B”**

**UNITED STATES OF AMERICA**  
**JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**CHAIRMAN:**

Judge Wm. Terrell Hodges  
 United States District Court  
 Middle District of Florida

**MEMBERS:**

Judge D. Lowell Jensen  
 United States District Court  
 Northern District of California

Judge J. Frederick Motz  
 United States District Court  
 District of Maryland

Judge Robert L. Miller, Jr.  
 United States District Court  
 Northern District of Indiana

Judge Kathryn H. Vratil  
 United States District Court  
 District of Kansas

Judge David R. Hansen  
 United States Court of Appeals  
 Eighth Circuit

Judge Anthony J. Scirica  
 United States Court of Appeals  
 Third Circuit

**DIRECT REPLY TO:**

Jeffery N. Lüthi  
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August 10, 2006

**NOTICE OF HEARING SESSION**

Dear Counsel:

Pursuant to the order of the Judicial Panel on Multidistrict Litigation filed today, you are hereby notified that a hearing session has been scheduled to consider various matters pursuant to 28 U.S.C. § 1407.

**DATE OF HEARING SESSION:** September 28, 2006

**LOCATION OF HEARING SESSION:** Ronald Reagan Federal Building and  
 United States Courthouse  
 Courtroom No. 10-A, 10th Floor  
 411 West Fourth Street  
 Santa Ana, California 92701

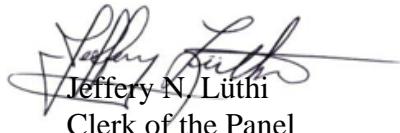
**TIME OF HEARING SESSION:** In those matters designated for oral argument, counsel presenting oral argument must be present at **8:30 a.m.** in order for the Panel to allocate the amount of time for oral argument. Oral argument will commence at **9:30 a.m.**

Please direct your attention to the enclosed Hearing Session Order and Schedule of Matters for Hearing Session for a listing of the matters scheduled for consideration at this hearing session.

- Section A of this Schedule lists the matters designated for oral argument.
- Section B of this Schedule lists the matters that the Panel has determined to consider **without oral argument**, pursuant to Rule 16.1(c), R.P.J.P.M.L., 199 F.R.D. 425, 439 (2001).

For those matters listed on Section A of the Schedule, the enclosed blue "Notice of Presentation or Waiver of Oral Argument" must be returned to this office no later than **September 11, 2006**. Note the procedures governing Panel oral argument which are outlined on the enclosed "Procedures for Oral Argument before the Judicial Panel on Multidistrict Litigation." These procedures are strictly adhered to and your cooperation is appreciated.

Very truly,

  
 Jeffery N. Lüthi  
 Clerk of the Panel

c: Clerk, U.S. District Court for the Central District of California

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION  
FILED

AUGUST 10, 2006

JEFFERY N. LÜTHI  
CLERK OF THE PANEL

***BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION***

***WM. TERRELL HODGES, CHAIRMAN, D. LOWELL JENSEN, J.  
FREDERICK MOTZ, ROBERT L. MILLER, JR., KATHRYN H. VRATIL,  
DAVID R. HANSEN AND ANTHONY J. SCIRICA, JUDGES OF THE  
PANEL***

**HEARING SESSION ORDER**

IT IS ORDERED that on September 28, 2006, a hearing session will be held in Santa Ana, California, to consider the matters on the attached Schedule under 28 U.S.C. § 1407.

IT IS FURTHER ORDERED that at said hearing session the Panel may, on its own initiative, consider transfer of any or all of the actions in those matters to any district or districts.

IT IS FURTHER ORDERED that at said hearing session the matters listed on Section A of the attached Schedule shall be designated for oral argument.

IT IS FURTHER ORDERED that at said hearing session the matters listed on Section B of the attached Schedule shall be considered without oral argument, pursuant to Rule 16.1(c), R.P.J.P.M.L., 199 F.R.D. 425, 439 (2001). The Panel reserves the prerogative, on any basis including submissions of parties pursuant to Panel Rule 16.1(b), to issue a subsequent notice designating any of those matters for oral argument.

IT IS FURTHER ORDERED that the Clerk of the Judicial Panel on Multidistrict Litigation shall direct notice of this hearing session to counsel for all parties involved in the matters on the attached Schedule.

FOR THE PANEL:



Wm. Terrell Hodges  
Chairman

**SCHEDULE OF MATTERS FOR HEARING SESSION**  
**September 28, 2006 -- Santa Ana, California**

**SECTION A**  
**MATTERS DESIGNATED FOR ORAL ARGUMENT**

**MDL-1792 -- In re InPhonic, Inc., Wireless Phone Rebate Litigation**

Motion of defendant InPhonic, Inc., for centralization of the following actions in the United States District Court for the District of Columbia:

**District of District of Columbia**

*Edwin Davis v. InPhonic, Inc.*, C.A. No. 1:06-528  
*Hongyi Yu, et al. v. InPhonic, Inc.*, C.A. No. 1:06-951

**Northern District of Illinois**

*Ryan Sutherland v. InPhonic, Inc., et al.*, C.A. No. 1:06-3281

**District of New Jersey**

*Paul Rock, et al. v. InPhonic, Inc.*, C.A. No. 2:06-2156

Schedule of Matters for Hearing Session, Section A  
Santa Ana, California

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MDL-1793 -- In re International Air Transportation Surcharge Antitrust Litigation

Motion of plaintiff Kambiz Pahlavan for centralization of the following actions in the United States District Court for the Northern District of California:

Northern District of California

*Kambiz Pahlavan v. British Airways, PLC, et al.*, C.A. No. 3:06-3905  
*Alfred T. Martini v. British Airways, PLC, et al.*, C.A. No. 3:06-3907  
*Corissa A. McDill v. British Airways, PLC, et al.*, C.A. No. 3:06-3940  
*Corinne Weber v. British Airways, PLC, et al.*, C.A. No. 3:06-3945  
*Matthew Graham v. British Airways, PLC, et al.*, C.A. No. 3:06-3959

Northern District of Illinois

*Ryan McGovern, et al. v. AMR Corp., et al.*, C.A. No. 1:06-3444

Eastern District of New York

*Michael McNamara v. British Airways, PLC, et al.*, C.A. No. 1:06-3105  
*John C. Gornik v. British Airways, PLC, et al.*, C.A. No. 1:06-3139  
*Kenneth R. Manyin v. British Airways, PLC, et al.*, C.A. No. 1:06-3144  
*Mark Levy, et al. v. British Airways, PLC, et al.*, C.A. No. 1:06-3152

Southern District of New York

*Susana Saldana, et al. v. American Airlines, Inc., et al.*, C.A. No. 1:06-4887

Eastern District of Pennsylvania

*Anne R. Rossi v. British Airways, PLC, et al.*, C.A. No. 2:06-2736  
*Teresa Willstaedt v. British Airways, PLC, et al.*, C.A. No. 2:06-2751  
*Stephen Collins v. British Airways, PLC, et al.*, C.A. No. 2:06-2759

Western District of Washington

*Nicholas L. Jenkins v. British Airways, PLC, et al.*, C.A. No. 2:06-903

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MDL-1794 -- In re Novartis Wage and Hour Litigation

Motion of defendants Novartis Pharmaceuticals Corporation; Novartis Corporation; Novartis Finance Corporation; and Novartis Services, Inc., for centralization of the following actions in the United States District Court for the Southern District of New York:

Central District of California

*Catherine White, et al. v. Novartis Pharmaceuticals Corp., et al.*, C.A. No. 2:06-2764

Southern District of New York

*Simona Lopes, et al. v. Novartis Corp., et al.*, C.A. No. 1:06-2268

MDL-1795 -- In re Insurance Industry Discriminatory Sales Practices Litigation

Motion of plaintiffs Marylyn Melder, et al., for centralization of the following actions in the United States District Court for the Western District of Texas:

Eastern District of Louisiana

*Marylyn Melder, et al. v. Allstate Corp., et al.*, C.A. No. 2:03-2499

Western District of Texas

*Jose C. DeHoyos, et al. v. Allstate Corp., et al.*, C.A. No. 5:01-1010

Schedule of Matters for Hearing Session, Section A  
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MDL-1796 -- In re Department of Veterans Affairs (VA) Data Theft Litigation

Motion of defendants Department of Veterans Affairs, R. James Nicholson, Gordon G. Mansfield, and John Doe for centralization of the following actions in the United States District Court for the District of District of Columbia:

District of District of Columbia

*Vietnam Veterans of America, Inc., et al. v. R. James Nicholson, et al.*,  
C.A. No. 1:06-1038

Eastern District of Kentucky

*Paul Hackett, et al. v. United States Department of Veterans Affairs, et al.*,  
C.A. No. 2:06-114

Eastern District of New York

*Michael Rosato, et al. v. R. James Nicholson, et al.*, C.A. No. 1:06-3086

MDL-1797 -- In re Best-of-China.com, Inc., Contract Litigation

Motion of defendant IBM World Trade Corporation for centralization of the following actions in the United States District Court for the Northern District of District of California:

Northern District of California

*Ralph I. Miller, et al. v. International Business Machines Corp., et al.*,  
C.A. No. 3:02-2118

Southern District of New York

*Ralph I. Miller, etc. v. IBM World Trade Corp., et al.*, C.A. No. 1:06-4452

Schedule of Matters for Hearing Session, Section B  
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**SECTION B**  
**MATTERS DESIGNATED FOR CONSIDERATION WITHOUT ORAL ARGUMENT**

**MDL-875 -- In re Asbestos Products Liability Litigation (No. VI)**

Oppositions of plaintiffs Donald McCarty, et al.; Miranda M. Drummond, etc.; Ellis Edward Hales, Jr.; and Franklin Joseph Modley, et al., to transfer of their respective following actions to the United States District Court for the Eastern District of Pennsylvania:

**Western District of Pennsylvania**

*Donald McCarty, et al. v. Allied Glove Corp., et al.*, C.A. No. 2:06-625

**Southern District of Texas**

*Miranda M. Drummond, etc. v. Quigley Co., Inc., et al.*, C.A. No. 4:06-1758

**Eastern District of Virginia**

*Ellis Edward Hales, Jr. v. Garlock Sealing Technologies, LLC, et al.*, C.A. No. 4:06-3203

**Southern District of West Virginia**

*Franklin Joseph Modley, et al. v. 20th Century Glove Corp. of Texas, et al.*,  
C.A. No. 2:06-213

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MDL-1291 -- In re Omeprazole Patent Litigation

Opposition of defendants Dexcel Ltd., Dexxon Ltd., Dexcel Pharma Technologies Ltd., and Dexcel Pharma Technologies, to transfer of the following actions to the United States District Court for the Southern District of New York:

District of Delaware

*AstraZeneca AB, et al., v. Dexcel, Ltd., et al.*, C.A. No. 1:06-358

Eastern District of Virginia

*AstraZeneca AB, et al. v. Dexcel, Ltd., et al.*, C.A. No. 1:06-634

MDL-1358 -- In re Methyl Tertiary Butyl Ether ("MTBE") Products Liability Litigation

Oppositions of plaintiffs Isaiah Machin, et al., and John F. Larrabee, et al., to transfer of their respective following actions to the United States District Court for the Southern District of New York:

Northern District of California

*Isaiah Machin, et al. v. Taylor Investment, LLC, et al.*, C.A. No. 4:06-3243

District of Maryland

*John F. Larrabee, et al. v. Exxon Mobil Oil Corp., et al.*, C.A. No. 1:06-1059

MDL-1566 -- In re Western States Wholesale Natural Gas Antitrust Litigation

Opposition of plaintiffs Breckenridge Brewery of Colorado, LLC, et al., to transfer of the following action to the United States District Court for the District of Nevada:

District of Colorado

*Breckenridge Brewery of Colorado, LLC, et al. v. ONEOK, Inc., et al.*,  
C.A. No. 1:06-1110

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MDL-1596 -- In re Zyprexa Products Liability Litigation

Oppositions of certain plaintiffs and defendants Dr. Thomas N. Thomas; Dr. Alok Jain; Malti Patel, M.D.; and Associated Womens Psychotherapists to transfer of their respective following actions to the United States District Court for the Eastern District of New York:

Middle District of Alabama

*Mattie Grant v. Eli Lilly & Co., et al.*, C.A. No. 2:06-464  
*Marie Person v. Eli Lilly & Co., et al.*, C.A. No. 2:06-465  
*Nicole Glover v. Eli Lilly & Co., et al.*, C.A. No. 2:06-466  
*Robert Frizzle v. Eli Lilly & Co., et al.*, C.A. No. 2:06-467  
*Leslie Gantt v. Eli Lilly & Co., et al.*, C.A. No. 2:06-468  
*Dorothy Wakefield v. Eli Lilly & Co., et al.*, C.A. No. 3:06-460

Southern District of Alabama

*Kelly P. Foster v. Eli Lilly & Co., et al.*, C.A. No. 1:06-261

District of Alaska

*State of Alaska v. Eli Lilly & Co.*, C.A. No. 3:06-88

Northern District of Indiana

*Edwin Perkins, Jr., et al. v. Eli Lilly & Co.*, C.A. No. 4:06-46  
*Fredrick Thomas, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-48  
*Ozella Tabourne, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-49  
*Lisa Alex, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-50  
*Maria Parson, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-51  
*Angela Williams, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-54  
*Victor Johnson, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-55  
*Jack Lidikay, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-56  
*Donette Mace, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-57  
*John Murnane, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-58  
*Marie Haney, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-59  
*Bradford Heck, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-60  
*Charmane Horton, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-61  
*Wesley Howard, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-62

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MDL-1596 (Continued)

Northern District of Indiana (Continued)

*Bobby Brown, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-63  
*Charles Clanton, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-64  
*Nancy Carpenter, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-65  
*Maxine Fernandez, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-66  
*Luella Cramer, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-67  
*Gordon Smith, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-68  
*Ray Garrison, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-69  
*Willie Bracy, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-70  
*Zanara R. Ross, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-71  
*Roger Tompkins, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-75  
*Wayne Trembly, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-76  
*Angela Albert, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-77  
*Richard Pagani, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-78  
*Leslie Carter, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-79  
*Casey Cade, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-80  
*Denise Eggleston, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-81  
*Kathleen Cleary, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-82  
*David Aguilera, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-83  
*Roseaner Gresham, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-84  
*Roger Young, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-85  
*Patsy Wright, et al. v. Woods, et al.*, C.A. No. 4:06-86  
*Ronald Brassfield, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-87  
*Michael Capshaw, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-88  
*Amy Goode, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-90  
*Lois Anne Shaffer, et al. v. Eli Lilly & Co.*, C.A. No. 4:06-91

Eastern District of Missouri

*Heidi Treiber v. Janssen Pharmaceutica, L.P., et al.*, C.A. No. 4:05-2292  
*Cammy Stover v. Janssen Pharmaceutica, L.P., et al.*, C.A. No. 4:06-238

District of New Jersey

*Kevin A. Holbert, et al. v. Eli Lilly & Co., et al.*, C.A. No. 3:06-1742

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MDL-1596 (Continued)

Southern District of West Virginia

*State of West Virginia, ex rel v. Eli Lilly & Co.,* C.A. No. 3:06-298

Eastern District of Wisconsin

*Frances Lee Young v. Eli Lilly & Co., et al.,* C.A. No. 2:06-645

MDL-1598 -- In re Ephedra Products Liability Litigation

Opposition of defendant Metabolife International, Inc., to transfer of the following action to the United States District Court for the Southern District of New York:

Northern District of Alabama

*Johnny C. McClain, et al. v. Metabolife International, Inc.,* C.A. No. 2:01-1801

MDL-1657 -- In re Vioxx Marketing, Sales Practices and Products Liability Litigation

Oppositions of plaintiffs to transfer of their respective following actions to the United States District Court for the Eastern District of Louisiana:

Middle District of Alabama

*Felix Arrington, et al. v. Merck & Co., Inc., et al.,* C.A. No. 2:06-488  
*Rosemary Leverett, etc. v. Merck & Co., Inc., et al.,* C.A. No. 3:06-476

District of Arizona

*Sultan Rahim Strong, etc. v. Merck & Co., Inc., et al.,* C.A. No. 2:06-1469

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MDL-1657 (Continued)

Southern District of Florida

*Milton Elliot v. Merck & Co., Inc., et al.*, C.A. No. 9:06-80545

Southern District of Illinois

*Coy Nunn, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:06-430

*Ruthie Young, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:06-462

*Demetrius Hardaway, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:06-465

Northern District of Mississippi

*Norman Mahan v. Merck & Co., Inc., et al.*, C.A. No. 2:06-62

*Larry Williams v. Merck & Co., Inc., et al.*, C.A. No. 4:06-60

Southern District of Texas

*Joyce Calloway, et al. v. Merck & Co., Inc.*, C.A. No. 4:06-1772

District of Utah

*State of Utah v. Merck & Co., Inc.*, C.A. No. 2:06-406

Schedule of Matters for Hearing Session, Section B  
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MDL-1657 -- In re Vioxx Marketing, Sales Practices and Products Liability Litigation  
MDL-1699 -- In re Bextra and Celebrex Marketing, Sales Practices and Products Liability  
Litigation

Oppositions of plaintiffs Irene Anders, et al., and Ronald Risk to transfer of their respective following actions to the United States District Court for the Eastern District of Louisiana in MDL-1657 and to the United States District Court for the Northern District of California in MDL-1699:

Southern District of Illinois

*Irene Anders, et al. v. Merck & Co., Inc., et al.*, C.A. No. 3:06-472

District of Nevada

*Ronald Risk v. Pfizer Inc., et al.*, C.A. No. 2:06-678

MDL-1663 -- In re Insurance Brokerage Antitrust Litigation

Oppositions of plaintiffs Jack Thornell, et al., and defendants Employers Reinsurance Corporation; Essex Insurance Company; Aetna, Inc.; Marine Insurance Company Limited; Royal & Sun Alliance; Amlin Underwriting Limited; and certain underwriters at Lloyd's London organized in 21 syndicates to transfer of their respective following actions to the United States District Court for the District of New Jersey:

Northern District of Georgia

*New Cingular Wireless Headquarters, LLC, et al. v. Marsh & McLennan Companies, Inc., et al.*, C.A. No. 1:06-796

Northern District of Illinois

*Jack Thornell, et al. v. Marsh & McLennan Companies, Inc., et al.*, C.A. No. 1:06-2632

Schedule of Matters for Hearing Session, Section B  
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MDL-1699 -- In re Bextra and Celebrex Marketing, Sales Practices and Products Liability Litigation

Opposition of plaintiff Louise M. Porac to transfer of the following action to the United States District Court for the Northern District of California:

Western District of Pennsylvania

*Louise M. Porac v. Pfizer Inc.*, C.A. No. 2:06-661

MDL-1708 -- In re Guidant Corp. Implantable Defibrillators Products Liability Litigation

Opposition of plaintiffs Henry Tellez, et al., to transfer of the following action to the United States District Court for the District of Minnesota:

District of New Mexico

*Henry Tellez, et al. v. Larry Tibbetts, et al.*, C.A. No. 1:06-408

MDL-1715 -- In re Ameriquest Mortgage Co. Mortgage Lending Practices Litigation

Oppositions of plaintiffs Wilbert Cooley, et al.; Vincent Lasorsa, et al.; and Ian Jobe, et al., and defendants GMAC Mortgage Corporation; BLS Funding Corporation; New Day Financial, LLC; and Secured Funding Corporation to transfer of their respective following actions to the United States District Court for the Northern District of Illinois:

Southern District of Alabama

*Wilbert Cooley, et al. v. Ameriquest Mortgage, Inc., et al.*, C.A. No. 1:06-215

Northern District of Indiana

*Robert Cole, et al. v. Ameriquest Mortgage Co., et al.*, C.A. No. 2:06-135

Schedule of Matters for Hearing Session, Section B  
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MDL-1715 (Continued)

Eastern District of Missouri

*Thomas J. Klutho v. Ameriquest Mortgage Co., et al.*, C.A. No. 4:06-746

Eastern District of Pennsylvania

*Vincent Lasorsa, et al. v. Ameriquest Mortgage Co., et al.*, C.A. No. 2:06-944

Middle District of Pennsylvania

*Ian Jobe, et al. v. Argent Mortgage Co., LLC*, C.A. No. 3:06-697

Motion of defendants Ameriquest Mortgage Company and Town & Country Title Services, Inc., for transfer of the following action to the United States District Court for the Northern District of Illinois:

Eastern District of California

*Keith T. Towns v. Ameriquest Mortgage Co., et al.*, C.A. No. 2:04-1855

MDL-1726 -- In re Medtronic, Inc., Implantable Defibrillators Products Liability Litigation

Opposition of defendant Tenet Healthcare Florida, Inc., to transfer of the following action to the United States District Court for the District of Minnesota:

Southern District of Florida

*Charles Beyer v. Medtronic, Inc., et al.*, C.A. No. 0:06-60458

Schedule of Matters for Hearing Session, Section B  
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MDL-1755 -- In re Bayou Hedge Funds Investment Litigation

Opposition of plaintiffs Travis Co. Joint Venture, et al., to transfer of the following action to the United States District Court for the Southern District of New York:

Western District of Texas

*Travis Co. Joint Venture, et al. v. Hennessee Group, LLC, et al.*, C.A. No. 5:06-146

MDL-1763 -- In re Human Tissue Products Liability Litigation

Oppositions of plaintiffs Donna Sanders, et al.; Cyndia Kennedy-McInnis, et al.; and Frank Davenport, et al.; and defendant Hillcrest Medical Center to transfer of their respective following actions to the United States District Court for the District of New Jersey:

Middle District of North Carolina

*Donna Sanders, et al. v. Forsyth Memorial Hospital, Inc., et al.*, C.A. No. 1:06-432

Western District of New York

*Cyndia Kennedy-McInnis, et al. v. Biomedical Tissue Services, Ltd., et al.*,  
C.A. No. 6:06-6140

Northern District of Oklahoma

*Frank Davenport, et al. v. BioMedical Tissue Services, Ltd., et al.*, C.A. No. 4:06-331

MDL-1769 -- In re Seroquel Products Liability Litigation

Opposition of plaintiff Lila Jackson, etc., to transfer of the following action to the United States District Court for the Middle District of Florida:

Eastern District of Texas

*Lila Jackson, etc. v. AstraZeneca Pharmaceuticals, LP, et al.*, C.A. No. 6:06-111

Schedule of Matters for Hearing Session, Section B  
Santa Ana, California

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MDL-1772 -- In re Series 7 Broker Qualification Exam Scoring Litigation

Opposition of plaintiff Mark Schley to transfer of the following action to the United States District Court for the District of District of Columbia:

Western District of Wisconsin

*Mark Schley v. National Association of Securities Dealers, Inc., C.A. No. 3:06-335*

PROCEDURES FOR ORAL ARGUMENT BEFORE THE  
JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

All oral argument is governed by the provisions of Rule 16.1 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation (effective April 2, 2001). Rule 16.1(g) allows a maximum of twenty minutes for oral argument in each matter. In most cases, however, less time is necessary for the expression of all views and the Panel reserves the prerogative of reducing the time requested by counsel. Accordingly, counsel should be careful not to overstate the time requested for oral argument.

The Panel insists that counsel limit all oral argument to the appropriate criteria. See generally In re “East of the Rockies” Concrete Pipe Antitrust Cases, 302 F. Supp. 244, 255-56 (J.P.M.L. 1969) (concurring opinion) (discussion concerning criteria for transfer).

Rule 16.1 is duplicated in its entirety hereafter for your convenience.

**RULE 16.1: HEARING SESSIONS AND ORAL ARGUMENT**

(a) Hearing sessions of the Panel for the presentation of oral argument and consideration of matters taken under submission without oral argument shall be held as ordered by the Panel. The Panel shall convene whenever and wherever desirable or necessary in the judgment of the Chairman. The Chairman shall determine which matters shall be considered at each hearing session and the Clerk of the Panel shall give notice to counsel for all parties involved in the litigation to be so considered of the time, place and subject matter of such hearing session.

(b) Each party filing a motion or a response to a motion or order of the Panel under Rules 7.2, 7.3, 7.4 or 7.6 of these Rules may file simultaneously therewith a separate statement limited to one page setting forth reasons why oral argument should, or need not, be heard. Such statements shall be captioned "Reasons Why Oral Argument Should [Need Not] Be Heard," and shall be filed and served in conformity with Rules 5.12 and 5.2 of these Rules.

(c) No transfer or remand determination regarding any action pending in the district court shall be made by the Panel when any party timely opposes such transfer or remand unless a hearing session has been held for the presentation of oral argument except that the Panel may dispense with oral argument if it determines that:

- (i) the dispositive issue(s) have been authoritatively decided; or
- (ii) the facts and legal arguments are adequately presented in the briefs and record, and the decisional process would not be significantly aided by oral argument.

Unless otherwise ordered by the Panel, all other matters before the Panel, such as a motion for reconsideration, shall be considered and determined upon the basis of the papers filed.

(d) In those matters in which oral argument is not scheduled by the Panel, counsel shall be promptly advised. If oral argument is scheduled in a matter the Clerk of the Panel may require counsel for all parties who wish to make or to waive oral argument to file and serve notice to that effect within a stated time in conformity with Rules 5.12 and 5.2 of these Rules. Failure to do so shall be deemed a waiver of oral argument by that party. If oral argument is scheduled but not attended by a party, the matter shall not be rescheduled and that party's position shall be treated as submitted for decision by the Panel on the basis of the papers filed.

(e) Except for leave of the Panel on a showing of good cause, only those parties to actions scheduled for oral argument who have filed a motion or written response to a motion or order shall be permitted to appear before the Panel and present oral argument.

(f) Counsel for those supporting transfer or remand under Section 1407 and counsel for those opposing such transfer or remand are to confer separately prior to the oral argument for the purpose of organizing their arguments and selecting representatives to present all views without duplication.

(g) Unless otherwise ordered by the Panel, a maximum of twenty minutes shall be allotted for oral argument in each matter. The time shall be divided equally among those with varying viewpoints. Counsel for the moving party or parties shall generally be heard first.

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(h) So far as practicable and consistent with the purposes of Section 1407, the offering of oral testimony before the Panel shall be avoided. Accordingly, oral testimony shall not be received except upon notice, motion and order of the Panel expressly providing for it.

(i) After an action or group of actions has been set for a hearing session, consideration of such action(s) may be continued only by order of the Panel on good cause shown.